Proposed Regulation on
COMMUNITY AGGREGATE PAYMENT LEVY
Stakeholder Consultation

Recent amendments to the Municipal Government Act give municipalities the ability to pass a community aggregate payment levy bylaw. If enacted, such a bylaw would permit a municipal council to raise revenue by imposing a levy on sand and gravel businesses operating in the municipality. The levy would not replace the use of road use agreements between individual sand and gravel companies and individual municipalities.

The maximum levy that a municipality may impose, and other matters related to the levy, will be established by regulation after consultation with stakeholders. The discussion paper and questionnaire provided in the two links below are intended to assist the development of the regulation by sharing the Ministry's proposals for the regulation with interested parties.

- Proposed Regulation on Community Aggregate Payment Levy - Discussion Paper
  This paper deals with each of the above matters in separate sections. Within each section, background information is presented first, followed by one or more proposed provisions for inclusion in the proposed regulation.

- Stakeholder Questionnaire **MS Word**
  Provide us with your opinions and comments. The Ministry will consider all the feedback from stakeholders and then make recommendations on the final content of the regulation.

Please respond with your comments by October 5, 2005, to:

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Edmonton, Alberta T5J 4L4
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If you have any technical questions about the paper, please contact
Patrick Cadden Tel: (780) 422-8360; e-mail patrick.cadden@gov.ab.ca or
Bill Symonds Tel: (780) 422-8355; e-mail bill.symonds@gov.ab.ca.

106-02133/

Proposed Regulation on COMMUNITY AGGREGATE PAYMENT LEVY

Discussion Paper

August 2005

Alberta
Municipal Affairs

Alberta
MUNICIPAL AFFAIRS

Local Government Services Division

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August 2005

Dear Stakeholder:

Recent amendments to the Municipal Government Act give municipalities the ability to pass a community aggregate payment levy bylaw. If enacted, such a bylaw would permit a municipal council to raise revenue by imposing a levy on sand and gravel businesses operating in the municipality. The levy would not replace the use of road use agreements between individual sand and gravel companies and individual municipalities.

The concept of a community aggregate payment levy was developed collaboratively by the Aggregate Resource Development Task Force, which consisted of representatives from the Alberta Association of Municipal Districts and Counties, the Alberta Sand and Gravel Association, and the Alberta Roadbuilders and Heavy Construction Association. The participants agreed that sand and gravel operations should provide more funding for mitigation and other local initiatives to demonstrate more clearly that the community benefits from these operations. They proposed that this more visible community benefit should take the form of a payment to the local municipality by the operator based upon the amount of material shipped.

The maximum levy that a municipality may impose, and other matters related to the levy, will be established by regulation after consultation with stakeholders. This discussion paper is intended to assist the development of the regulation by sharing the Ministry's proposals for the regulation with interested parties. You are invited to review the paper and provide us with your opinions and comments; for your convenience, a stakeholder questionnaire is included with the paper. The Ministry will consider all the feedback from stakeholders and then make recommendations on the final content of the regulation.

Please respond with your comments by **October 5, 2005**, to:

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Yours truly,

Brian Quickfall
Assistant Deputy Minister

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Introduction

Legislative Context

The provisions concerning a community aggregate payment levy, in Bill 28 – Municipal Government Amendment Act, 2005, came into force on May 10, 2005. These provisions (which are set out in the Appendix):

- enable a municipal council to pass a "community aggregate payment levy bylaw": a bylaw which authorizes the council to impose a levy in respect of all sand and gravel businesses operating in the municipality, to raise revenue to be used toward the payment of infrastructure costs and other costs in the municipality.

- define the levy as a tax, which means that the remedies in the Municipal Government Act for the recovery of taxes would apply in situations where a sand and gravel operator has failed to pay the required levy.

- authorize the Minister of Municipal Affairs to make regulations with respect to the levy, including the maximum levy that may be imposed and the application of the levy.

Purpose of the Proposed Regulation

The provisions of the proposed regulation will collectively establish the implementation framework for municipalities that decide to adopt a community aggregate payment levy. Municipal Affairs has identified the following as matters that the provisions should address:

- the imposition and calculation of the community aggregate payment levy;
- the selection of a community aggregate payment levy rate, including the maximum rate that can be charged;
- exemptions from the community aggregate payment levy;
- the relationship of the community aggregate payment levy to other levies on sand and gravel production; and
- the contents of community aggregate payment levy bylaws.

Organization of the Discussion Paper

This paper deals with each of the above matters in separate sections. Within each section, background information is presented first, followed by one or more proposed provisions for inclusion in the proposed regulation. For the convenience of readers, a stakeholder questionnaire is included towards the end of the paper.

1. The Imposition and Calculation of the Community Aggregate Payment Levy

The consensus of the Aggregate Resource Development Task Force was that the levy paid to the municipality should be based upon the amount of sand and gravel that an operator ships from a pit. The levy would be determined by multiplying this amount (in tonnes or portions of a tonne) by a levy rate per tonne. As well, the task force envisaged that the sand and gravel would be levied only once between the time that the aggregate was extracted from a pit and the time that it was delivered to the end-user.

These proposals by the task force imply that the levy would be imposed at the time that the sand and gravel is shipped from the pit where it has been extracted. The levy would be applied regardless of whether the sand and gravel is (i) shipped directly to the end-user, or (ii) shipped to another facility or pit for crushing, screening and/or stockpiling (before being shipped to a final destination). In the case of shipment type (ii), a levy would be applied when the sand and gravel leaves the pit where it was extracted, but not when the same sand and gravel leaves the intermediate processing/stockpiling location.

The implementation of these proposals would place an onus on all sand and gravel operators to maintain detailed records of production, inventory, and shipments (both inbound and outbound). These data will facilitate accurate reporting and are needed to prevent sand and gravel being levied more than once.

In practice, sand and gravel moved from its source pit to a geographically separate processing/stockpiling location may or may not be kept physically separate from other sand and gravel at that location.

If the load of sand and gravel is not mixed in with the other supplies on-site, it should be relatively straightforward to track the progress of the load and determine that a levy should not be applied when the load leaves the intermediate location.

By contrast, in cases where different loads and supplies are mixed together at the intermediate processing/stockpiling location, the operators at the processing/stockpiling locations will have to devise a procedure for ensuring that the correct quantity of aggregate is reported to the municipality for levy calculation purposes. The operators' records will be critical in determining how much of the sand and gravel shipped out originates from elsewhere. These amounts of sand and gravel are not subject to levy (because a levy would have already been paid at the origin).

It is proposed that the levy on a sand and gravel operator be imposed at the pit from where the sand and gravel has been extracted and is being trucked out. For the purposes of the proposed regulation, a "shipment" would be defined as a quantity of sand and gravel that is hauled from the pit where it was extracted.

It is also proposed that the levy on a sand and gravel operator be determined by calculating as follows:

sand and gravel shipped from the pit where it was extracted (in tonnes)	**x**	***levy rate on the pit (in cents per tonne)***

2. *The Selection of a Community Aggregate Payment Levy Rate*

The Municipal Government Amendment Act, 2005 enables municipalities to set community aggregate payment levy rates at rates up to and including a maximum rate set by regulation. Municipal flexibility would be enhanced if individual municipalities have the freedom to choose between applying a standard rate to all pits or setting different rates for different pits.

It is proposed that the maximum levy rate that a municipality can apply to any sand and gravel shipment from a pit located within the municipality's territory be set at $0.25/tonne.

It is also proposed that a municipality that wishes to impose different levy rates on a pit-by-pit basis instead of setting a standard levy rate for all pits in the municipality be permitted to establish different classes of pit, and the applicable levy rates, in the community aggregate payment levy bylaw.

3. *Exemptions from the Community Aggregate Payment Levy*

Some sand and gravel pits are owned or leased by private individuals or concerns. Others are owned or leased by municipalities or provincial departments. Many of the shipments from municipal and provincial pits are destined for a municipal or provincial pit, project or end-use; others could be sales to private individuals or companies, unrelated to municipal or provincial projects.

Municipalities and provincial departments agree with the community aggregate payment levy being applied to "private sales" from municipal and provincial pits. However, they but do not support the application of the levy to shipments from municipal and provincial pits to municipal and provincial projects. These views can be taken into account in the proposed regulation by exempting from the levy all shipments from municipal and provincial pits except for sales to non-government customers for private purposes.

It is proposed that an exemption from liability to the community aggregate payment levy be provided for any shipment for a use or project being undertaken by the Crown or a municipality from a pit on land owned or leased by the Crown or a municipality.

4. The Relationship of the Community Aggregate Payment Levy to Other Municipal Levies on Sand and Gravel Production

A small number of municipalities established charges, fees or similar levies on sand and gravel production before the community aggregate payment levy concept was developed by the industry and municipal associations, and Bill 28 was legislated. In some cases, charges were initiated by operators voluntarily entering into an agreement with the municipality.

The existing sand and gravel production levies do not receive the legal protection that would be offered by a community aggregate payment levy bylaw. The industry and municipal associations on the Aggregate Resource Development Task Force support the replacement of these existing levies with the community aggregate payment levy.

Municipalities that do not currently administer a sand and gravel production levy will have the option of adopting a community aggregate payment levy. By contrast, those municipalities with an existing sand and gravel production levy must choose between that levy and a community aggregate payment levy; it is inequitable to have both. A municipality's decision on a levy would not affect the municipality's use of road use agreements with individual sand and gravel companies.

It is proposed that the community aggregate payment levy be prohibited on shipments of sand and gravel that are subject to another volume- or weight-based charge, fee, levy, licence, tax or other similar payment to the municipality.

5. The Contents of Community Aggregate Payment Levy Bylaws

For reasons of transparency and accountability, it would be beneficial to citizens, industry and municipalities if municipalities included key operational details about the community aggregate payment levy in the community aggregate payment levy bylaw. This would address industry's desire for certainty about ground rules and procedures, and ensure a common understanding among stakeholders.

The municipality should be provided with maximum flexibility to tailor the bylaw to the local situation as appropriate. The only aspects of bylaw content that the proposed regulation need to address explicitly are the reporting of the amount of taxable aggregate shipped by sand and gravel operators, and the municipality's schedule for mailing of levy notices.

It is proposed that community aggregate payment levy bylaws require sand and gravel operators in the municipality to report the tonnage of sand and gravel subject to the community aggregate payment levy that is shipped from the pits in the municipality.

It is also proposed that community aggregate payment levy bylaws state when:

(a) operators must report the shipments (in tonnes) from their pits;
(b) the municipality will send out tax notices in respect of the levy; and
(c) operators must pay the levy.

APPENDIX

Selected Extracts from Bill 28 - Municipal Government Amendment Act, 2005:

Provisions Related to the Community Aggregate Payment Levy

Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that the amendments have been embodied for convenience of reference only, and that the original Acts should be consulted for purposes of interpreting and applying the law.

MUNICIPAL GOVERNMENT AMENDMENT ACT, 2005

(Assented to May 10, 2005)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

Amends RSA 2000 cM-26

1 The *Municipal Government Act* is amended by this Act.

2 Section 1(1)(aa) is amended

(b) by striking out "and" **at the end of subclause (v), adding** ", and" **at the end of subclause (vi) and adding the following after subclause (vi):**

(vii) a community aggregate payment levy;

3 Section 243(2) is amended

(b) by adding the following after clause (f):

(f.1) community aggregate payment levy;

12 Section 348(d) is repealed and the following is substituted:

(d) are a special lien

(i) on land and any improvements to the land, if the tax is a property tax, a community revitalization levy, a special tax, a local improvement tax or a community aggregate payment levy, or

(ii) on goods, if the tax is a business tax, a community revitalization levy, a well drilling equipment tax, a community aggregate payment levy or a property tax imposed in respect of a designated manufactured home in a manufactured home community.

15 The following is added after section 409:

Division 7.1
Community Aggregate Payment Levy

Community aggregate payment levy bylaw

409.1(1) Each council may pass a community aggregate payment levy bylaw.

(2) A community aggregate payment levy bylaw authorizes the council to impose a levy in respect of all sand and gravel businesses operating in the municipality to raise revenue to be used toward the payment of infrastructure and other costs in the municipality.

Person liable to pay levy

409.2 A levy imposed under this Division must be paid by the persons who operate sand and gravel operations in the municipality.

Regulations

409.3(1) The Minister may make regulations

(a) respecting a levy referred to in section 409.1(2), including, without limitation, regulations respecting the maximum levy that may be imposed and the application of the levy;

(b) respecting the application of any provision of this Act, with or without modification, to a community aggregate payment levy bylaw or a community aggregate payment levy, or both;

(c) respecting any other matter necessary or advisable to carry out the intent and purpose of this Division.

(2) A regulation under subsection (1) may be specific to a municipality or general in its application.

16 Section 410(e) is repealed and the following is substituted:

(e) "tax" means a property tax, a community revitalization levy, a special tax, a local improvement tax or a community aggregate payment levy;

18 Section 437(c) is amended

(a) by striking out "or" **at the end of subclause (ii) and adding the following after subclause (ii):**

(ii.1) a community aggregate payment levy, or

Explanatory Notes to the Amendments

1 Amends chapter M-26 of the Revised Statutes of Alberta 2000.

2 Section 1(1)(aa) presently reads:

1(1) In this Act,

(aa) "tax" means

(i) a property tax,

(ii) a business tax,

(iii) a business revitalization zone tax,

(iv) a special tax,

(v) a well drilling equipment tax, and

(vi) a local improvement tax;

3 Section 243(2) presently reads:

(2) An operating budget must include the estimated amount of each of the following sources of revenue and transfers:

(a) property tax;

(b) business tax;

(c) business revitalization zone tax;

(d) special tax;

(e) well drilling equipment tax;

(f) local improvement tax;

(g) grants;

(h) transfers from the municipality's accumulated surplus funds or reserves;

(i) any other source.

12 Section 348(d) presently reads:

348 Taxes due to a municipality

(d) are a special lien

(i) on land and any improvements to the land, if the tax is a property tax, a special tax or a local improvement tax, or

(ii) on goods, if the tax is a business tax, a well drilling equipment tax or a property tax imposed in respect of a designated manufactured home in a manufactured home community.

15 New Division to authorize the imposition of a community aggregate payment levy.

16 Section 410(e) presently reads:

410 In this Division,

(e) "tax" means a property tax, a special tax or a local improvement tax;

18 Section 437(c) presently reads:

437 In this Division,

(c) "tax" means

(i) a business tax,

(ii) a well drilling equipment tax, or

(iii) a property tax imposed in respect of property referred to in section 304(1)(c), (f), (g), (h), (i), (j)(i) or (k);

PROPOSED REGULATION ON COMMUNITY AGGREGATE PAYMENT LEVY

Stakeholder Questionnaire

- To complete this questionnaire electronically, please click on the shaded fields (only visible on screen) and type your response. The field will expand as you type. Save the file and return as an e-mail attachment.
- As an alternative, the questionnaire can be printed out and completed manually.

Respondent: _____

Organization: _____

Position: _____

Street Address: _____

City/Town: _____

Postal Code: _____

Is this response the official response from your organization? ☐**Yes** ☐**No**

Please indicate whether you support the following proposals:

1. ***The Imposition and Calculation of the Community Aggregate Payment Levy.***

It is proposed that the levy on a sand and gravel operator be imposed at the pit from where the sand and gravel has been extracted and is being trucked out. For the purposes of the proposed regulation, a "shipment" would be defined as a quantity of sand and gravel that is hauled from the pit where it was extracted.

(Please check only one box)

☐Support ☐Do not support ☐Conditionally support

If your support is conditional, what are the conditions?

_____

_____

_____

Please give your reasons for support, non-support or conditional support:

_____

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_____

It is also proposed that the levy on a sand and gravel operator be determined by calculating as follows:

sand and gravel shipped from the pit where it was extracted (in tonnes)	**x**	***levy rate on the pit (in cents per tonne)***

(Please check only one box)

☐Support ☐Do not support ☐Conditionally support

If your support is conditional, what are the conditions?

_____

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Please give your reasons for support, non-support or conditional support:

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_____

2. ***The Selection of a Community Aggregate Payment Levy Rate.***

It is proposed that the maximum levy rate that a municipality can apply to any sand and gravel shipment from a pit located within the municipality's territory be set at $0.25/tonne.

(Please check only one box)

☐Support ☐Do not support ☐Conditionally support

If your support is conditional, what are the conditions?

_____

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Please give your reasons for support, non-support or conditional support:

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It is also proposed that a municipality that wishes to impose different levy rates on a pit-by-pit basis instead of setting a standard levy rate for all pits in the municipality be permitted to establish different classes of pit, and the applicable levy rates, in the community aggregate payment levy bylaw.

(Please check only one box)

☐ Support ☐ Do not support ☐ Conditionally support

If your support is conditional, what are the conditions?

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Please give your reasons for support, non-support or conditional support:

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3. ***Exemptions from the Community Aggregate Payment Levy***

It is proposed that an exemption from liability to the community aggregate payment levy be provided for any shipment for a use or project being undertaken by the Crown or a municipality from a pit on land owned or leased by the Crown or a municipality.

(Please check only one box)

☐ Support ☐ Do not support ☐ Conditionally support

If your support is conditional, what are the conditions?

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_____

Please give your reasons for support, non-support or conditional support:

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4. ***The Relationship of the Community Aggregate Payment Levy to Other Municipal Levies on Sand and Gravel Production***

It is proposed that the community aggregate payment levy be prohibited on shipments of sand and gravel that are subject to another volume- or weight-based charge, fee, levy, licence, tax or other similar payment to the municipality.

(Please check only one box)

☐Support ☐Do not support ☐Conditionally support

If your support is conditional, what are the conditions?

_____

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Please give your reasons for support, non-support or conditional support:

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5. ***The Contents of Community Aggregate Payment Levy Bylaws.***

It is proposed that community aggregate payment levy bylaws must require sand and gravel operators in the municipality to report the tonnage of sand and gravel subject to the community aggregate payment levy that is shipped from the pits in the municipality.

(Please check only one box)

☐Support ☐Do not support ☐Conditionally support

If your support is conditional, what are the conditions?

_____

_____

_____

Please give your reasons for support, non-support or conditional support:

_____

_____

_____

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It is also proposed that community aggregate payment levy bylaws state when:

(a) operators must report the shipments (in tonnes) from their pits;
(b) the municipality will send out tax notices in respect of the levy; and
(c) operators must pay the levy.

(Please check only one box)

☐ Support ☐ Do not support ☐ Conditionally support

If your support is conditional, what are the conditions?

_____
_____
_____

Please give your reasons for support, non-support or conditional support:

_____
_____
_____
_____

Thank you for taking the time to read this discussion paper and to provide your views.

Please respond with your comments by **October 5, 2005**, to:

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